

## **IC 20-12-21.1**

### **Chapter 21.1. Guaranteed Student Loan Program**

## **IC 20-12-21.1-1**

### **Definitions**

Sec. 1. (a) "Approved lender" means:

- (1) any qualified institution; or
- (2) any bank, trust company, savings association, credit union, or other entity as described in 20 U.S.C. 1085(d) whose primary consumer credit function is not the making of guaranteed student loans and which is examined and supervised by the appropriate state or federal regulatory agency.

(b) "Commission" means the student assistance commission established under IC 20-12-21-4.

(c) "Guaranteed student loans" means loans issued by approved lenders to students or either one (1) or both parents of students pursuant to state and federal law.

(d) "Half-time students" means certificate, diploma, associate, baccalaureate, graduate or professional students enrolled in courses sufficient for them to be considered half-time by the institution.

(e) "Qualified institution" means any post-secondary educational institution which is approved by the commission for the purposes of this chapter. However, an institution offering exclusively correspondence or home study courses is not a qualified institution.

(f) "Resident" means a United States citizen or alien who is admitted into the United States for lawful, permanent residence and who:

- (1) attends a qualified institution in Indiana;
- (2) lives in Indiana and attends a qualified institution outside Indiana;
- (3) lives outside Indiana and attends a qualified institution outside Indiana, but who:
  - (A) previously was a resident described in subdivision (1) or (2); and
  - (B) as a resident had a loan guaranteed by the commission under this chapter;
- (4) resides in a county contiguous to the boundary of Indiana; or
- (5) resides in a county that the commission approves as being within the servicing area of a participating lender which lender is located in Indiana or in a county contiguous to the boundary of Indiana.

*As added by Acts 1977, P.L.252, SEC.9. Amended by Acts 1981, P.L.203, SEC.1; P.L.167-1991, SEC.1; P.L.79-1998, SEC.17.*

## **IC 20-12-21.1-2**

### **Powers and duties of commission**

Sec. 2. The commission has the following powers and duties:

- (1) To approve, as qualified institutions, any postsecondary educational institutions which meet the standards established by

the commission.

(2) To establish reasonable eligibility criteria for the initial and continuing participation of approved lenders in the student loan program.

(3) To guarantee loans made by approved lenders upon conditions prescribed by the commission to residents who are attending or plan to attend qualified institutions in this state or elsewhere, for the purpose of assisting them in meeting education expenses. The commission shall guarantee not less than one hundred percent (100%) of the principal and interest on the loans. However, the rate of interest on guaranteed loans may not exceed the annual rate of simple interest prescribed for state student loan programs pursuant to federal law.

(4) To guarantee loans to students, or either one (1) or both parents of students, who attend or plan to attend a qualified institution, who are at least half-time students, and who are accepted by the qualified institution.

(5) To sue and be sued in the name of the commission.

(6) To make rules and internal policy to effectuate the purposes of this chapter.

(7) To enter into contracts and guaranty agreements with approved lenders, state governmental agencies, corporations, and federal governmental agencies including agreements for federal insurance of losses resulting from death, default, bankruptcy, or total and permanent disability of borrowers.

(8) To require that any loan guaranteed under this chapter be disbursed and repaid in the manner and time that the commission prescribes.

(9) To remove an educational institution's qualified status upon finding, after reasonable notice and hearing, that the qualified institution fails to meet the standards established by the commission. The commission may direct the Indiana commission on proprietary education established under IC 20-1-19-2 to review any school under its jurisdiction, or a comparable school outside the state which is a qualified institution under this chapter. The commission may use the results of the review in determining whether to remove an institution's qualified status.

(10) To accept, use, and disburse federal funds made available to the commission by the federal government.

(11) To collect an insurance premium of not more than one percent (1%) per annum of the principal amount of the loan. The premium shall be calculated in accordance with federal regulations.

(12) To take, hold, and administer, on behalf of the loan program and for the purposes of this chapter, property, money, and the interest and income derived from them either absolutely or in trust. The commission may accept gifts, grants, bequests, devises, and loans for the purposes of this chapter. No obligation of the loan program for losses on student loans

resulting from death, default, bankruptcy, or total or permanent disability of borrowers is a debt of the state, but shall be payable solely from the student loan program fund established by section 4 of this chapter.

*As added by Acts 1977, P.L.252, SEC.9. Amended by Acts 1981, P.L.203, SEC.2; P.L.218-1987, SEC.12.*

### **IC 20-12-21.1-3**

#### **Lenders or qualified institutions; failure to meet eligibility criteria; notice and hearing; correction of violations**

Sec. 3. Whenever the commission or its designee has reason to believe that a lender or a qualified institution fails to meet the eligibility criteria for approved lenders, the commission or its designee shall call the matter to the attention of the lender or qualified institution. The lender or qualified institution is entitled to a reasonable opportunity to respond to the allegation, and if the alleged violation occurred, to show that it is corrected or to submit an acceptable plan detailing measures which will be taken to correct the violation and prevent its recurrence.

Upon finding, after reasonable notice and hearing, that a lender or qualified institution fails to meet the eligibility criteria for approved lenders, the commission may:

- (1) Limit the number or total amount of loans which the lender or qualified institution may make under this chapter;
- (2) Limit the percentage of a qualified institution's total receipts for tuition and fees which may be derived from loans under this chapter for a stated period of time;
- (3) Require a qualified institution to obtain a bond, in an appropriate amount, to provide assurance that it will be able to meet its financial obligations to students enrolled in such institutions who received loans under this chapter; and
- (4) Impose other conditions or requirements on lenders or qualified institutions or both, which:
  - (i) are reasonable and appropriate as a direct means of correcting a violation;
  - (ii) have a high probability for successfully correcting the violation; and
  - (iii) will promote the purposes of this chapter.

*As added by Acts 1977, P.L.252, SEC.9.*

### **IC 20-12-21.1-4**

#### **Student loan program fund; investment**

Sec. 4. Funds received under the loan program shall be deposited with the treasurer of state in a separate account known as the "student loan program fund". The money remaining in the student loan program fund at the end of a state fiscal year does not revert to the state general fund. After consultation with the program director of the loan program appointed under IC 20-12-21-5.5, the treasurer shall invest the funds. Any income earned on amount so invested is part of the fund.

*As added by Acts 1977, P.L.252, SEC.9.*

#### **IC 20-12-21.1-5**

##### **Tax exemption**

Sec. 5. The property, income, obligations and activities of the program are exempt from all state and local taxation.

*As added by Acts 1977, P.L.252, SEC.9.*

#### **IC 20-12-21.1-6**

##### **Notice of default; payment to holder of guaranteed portion of loss; subrogation; forbearance agreements; diligence required of holder**

Sec. 6. (a) Upon default by the borrower on a loan guaranteed under this chapter, and before the commencement of a suit or other enforcement proceedings upon security for the loan, the holder of the guaranteed loan obligation shall promptly notify the commission and the commission shall pay the holder upon that loan as soon as the amount is determined. The commission shall determine the amount of loss in accordance with its rules; however, the amount of loss may not exceed the unpaid balance of the principal amount and the unpaid accrued interest.

(b) Upon payment by the commission of the guaranteed portion of the loss, the commission shall be subrogated to the rights of the holder of the obligation upon the insured loan and is entitled to an assignment of the note or other evidence of the guaranteed loan by the holder.

(c) This section does not preclude any forbearance for the benefit of the borrower agreed upon by the parties to the guaranteed loan and the commission.

(d) The holder of a guaranteed loan shall exercise reasonable care and diligence in the making and collection of loans under this chapter. If the commission finds that reasonable care and diligence is not being exercised by the holder of a guaranteed loan the commission may:

- (1) withdraw its guarantee on an individual borrower basis, allowing the approved lender to continue participation in the program, after reasonable notice to the lender; or
- (2) disqualify an approved lender from the guarantee of further loans upon finding, after reasonable notice and hearing, that the lender has substantially failed to exercise reasonable care and diligence in the making and collection of loans under this chapter.

These disqualifications shall continue until the commission is satisfied that the lender will exercise reasonable care and diligence in the future.

*As added by Acts 1977, P.L.252, SEC.9. Amended by Acts 1981, P.L.203, SEC.3.*

#### **IC 20-12-21.1-7**

##### **Dissolution of loan program**

Sec. 7. The loan program established by this chapter may not be

dissolved until all guaranteed loans have been repaid by the borrower or, if in default, by the commission. Upon dissolution of the loan program, all the property and monies of the program not owed to the federal government shall vest in the state general revenue fund.

*As added by Acts 1977, P.L.252, SEC.9.*

#### **IC 20-12-21.1-8**

##### **Legal counsel**

Sec. 8. The attorney general shall act as legal counsel to the commission. When the collection of loans on which the commission has met its guarantee obligation requires legal action outside the state of Indiana, the commission, upon the recommendation of the attorney general, may employ private, out-of-state counsel and expend its own funds to pay for this service.

*As added by Acts 1977, P.L.252, SEC.9.*